REMARKS

Forty-five claims were originally filed in the present Application. Claims 1-7, 9-12, 14-27, 29-32, and 34-45 currently stand rejected. Claims 8, 13, 28, and 33 have been allowed. Claim 45 is amended, and new claim 46 is added herein. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

35 U.S.C. § 103

In paragraph 3 of the Office Action, the Examiner rejects claims 1-3, 5, 9-12, 14-23, 25, 29-32, and 34-44 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,659,861 to Faris et al. (hereafter Faris). The Applicants respectfully traverse these rejections for at least the following reasons. Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

> "First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a). Applicants respectfully traverse the

Examiner's rejections, and submit that Faris fail to teach a number of the claimed elements of the present invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

With regard to claims 1, 21, and 43, the Examiner states that Faris "does not "explicitly address the expiration of the access code." Applicants concur. However, the Examiner fails to cite any additional reference(s) to support the rejections. Instead, the Examiner only states that "it would have been obvious . . . to expire an access code . . . ." It appears that the Examiner is utilizing Official Notice without expressly stating so. Applicants therefore again respectfully request the Examiner to cite specific references in support of these rejections, and failing to do so, to reconsider and withdraw the rejections of claims 1, 21, and 43, so that the present Application may issue in a timely manner.

With regard to claim 44, "means-plus-function" language is utilized to recite elements and functionality similar to those recited in claims 1 and 21 which are discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 44. In addition, the Courts have frequently held that "means-plus-function" language, such as that of claim 44, should be construed in light of the Specification.

More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification,* and equivalents thereof. Applicants respectfully submit that, in light of the substantial differences between the teachings of Faris and Applicants' invention

as disclosed in the Specification, claim 44 is therefore not anticipated or made obvious by the teachings of Faris.

Regarding the Examiner's rejection of dependent claims 2-3, 5, 9-12, 14-20, 22-23, 25, 29-32, and 34-42, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 2-3, 5, 9-12, 14-20, 22-23, 25, 29-32, and 34-42, so that these claims may issue in a timely manner.

For at least the foregoing reasons, the Applicants submit that claims 1-3, 5, 9-12, 14-23, 25, 29-32, and 34-44 are not unpatentable under 35 U.S.C. § 103 over Faris, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 1-3, 5, 9-12, 14-23, 25, 29-32, and 34-44 under 35 U.S.C. § 103.

In paragraph 4 of the Office Action, the Examiner rejects claims 4, 6-7, 24, and 26-27 under 35 U.S.C. § 103(a) as being unpatentable over Faris in view of U.S. Patent No. 6,659,861 to Subrahmanyam et al. (hereafter Subrahmanyam). The Applicant respectfully traverses these rejections for at least the following reasons.

Regarding the Examiner's rejection of dependent claims 4, 6-7, 24, and 26-27, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 4. 6-7, 24, and 26-27, so that these claims may issue in a timely manner.

In addition, the Court of Appeals for the Federal Circuit has held that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination." In re Geiger, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Applicants submit that the cited references do not suggest a combination that would result in Applicants' invention, and therefore the obviousness rejection under 35 U.S.C §103 is improper.

For at least the foregoing reasons, the Applicants submit that claims 4, 6-7, 24, and 26-27 are not unpatentable under 35 U.S.C. § 103 over Faris in view of Subrahmanyam, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 4 and 24 under 35 U.S.C. § 103.

In paragraph 6 of the Office Action, the Examiner rejects claim 45 under 35 U.S.C. § 103(a) as being unpatentable over Faris in view of U.S. Patent No.

6,584,095 to Jacobi et al. (hereafter Jacobi), or U.S. Patent No. 6,591,315 to Bhagat et al. (hereafter Bhagat). The Applicants respectfully traverse these rejections for at least the following reasons.

Regarding the Examiner's rejection of independent claim 45, Applicants respond to the Examiner's §103 rejection as if applied to amended claim 45 which is now recites *"said user device having one or more time-stamped access capabilities that are each utilized to access a different event service, said time-stamped access capabilities being provided by said event server after receiving said access code from said user device,"* which are limitations that are not taught or suggested either by the cited references, or by the Examiner's citations thereto.

In particular, in paragraph 5 of the Office Action, the Examiner states that "time stamped access depending on distinct event services provided after receipt of an access code is neither anticipated not (sic) suggested by the prior art of record." For at least the foregoing reasons, the Applicants submit that amended claim 45 is not unpatentable under 35 U.S.C. § 103 over Faris in view of either Jacobi or Bhagat, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claim 45 under 35 U.S.C. § 103.

New Claim 46

The Applicants herein submit additional independent claim 46 for consideration by the Examiner in the present Application. The new claim 46 recites specific detailed limitations that include utilizing a user device to perform

"said wireless communications procedure at a specific geographic event location of a live event . . . ." as disclosed and discussed in the Specification (see Specification, page 7, lines 14-29).

Applicants submit that newly-added claim 46 contains a number of limitations that are not taught or suggested in the cited references. For example, Faris teaches "[a]n Internet-based system for enabling a time-constrained competition among a plurality of participants over the Internet (see Abstract). Therefore, the user devices of Faris are not at a "specific geographic event location of a live event," as claimed by Applicants in additional independent claim 46. For at least the foregoing reasons, Applicants therefore respectfully request the Examiner to consider and allow new claim 46, so that this claim may issue in a timely manner.

Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §103(a). Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-46, so that the present Application may issue in a timely manner. If there are any questions concerning this amendment, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: 9/23/04

By: _____

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